IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

WP(C).No. 17063 of 2004(F)

PETITIONER:

KERASREE COCONUT PRODUCTS PRIVATE LIMITED, REGD.OFFICE, NO.33/2637 A, P.C.CROSS ROAD VYTTILA, KOCHI 682019, REPRESENTED BY ITS MANAGING DIRECTOR, V.T.MARKOSE.

BY ADV. SRI.M.JACOB MURICKAN
ADV. SHRI.N.JAMES KOSHY

RESPONDENTS:

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1. KERALA STATE ELECTRICITY BOARD, REPRESENTED BY ITS SECRETARY, VYDYUTHI BHAVANAM, PATTOM PALACE, THIRUVANANTHAPURAM.

2. THE ASSISTANT ENGINEER, KSEB ELECTRICAL SECTION, MUTHALAMADA, PALAKKAD.

3. THE ASSISTANT EXECUTIVE ENGINEER, ANTI POWER THEFT SQUAD (APTS), KSEB, PALAKKAD.

4. THE DEPUTY CHIEF ENGINEER, APTA (HEAD QUARTERS) KSEB VYDYUTHI BHAVANAM, PATTOM PALACE, THIRUVANANTHAPURAM -4.

BY ADV. SRI.P.SANTHALINGAM, SC, KSEB
SRI.C.K.KARUNAKARAN, SC FOR KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) No. 17063/2004

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF THE MAHAZAR DATED 03/12/2003.

P2 : COPY OF THE DEMAND NOTICE DATED 05/12/2003.

P3 : COPY OF THE APPEAL MEMORANDUM DATED 08/12/2003.

P4 : CO0PY OF THE ORDER DATED 07/01/2004.

P5 : COPY OF THE RECEIPT DATED 10/02/2004.

P6 : COPY OF THE ORDER DATED 25/05/2004.

P7 : COPY OF THE INVOICES ISSUED TO THE PETITIONER FROM APRIL 2003 TO NOVEMBER 2003.

P8 : COPY OF THE INVOICES ISSUED TO THE PETITIONER FROM JANUARY 2004 TO APRIL 2004.

P9 : COPY OF THE RECEIPT DATED 28/06/2004.

P10 : COPY OF the PETITION / APPEAL DATED 05/07/2004.

P9 : COPY OF THE DEMAND NOTICE OF THE 2ND RESPONDENT DATED 27/06/2007.

RESPONDENT'S EXHIBITS

R1(a) : COPY OF THE INVOICE DATED 05/12/2003 NO. SR 3498 FOR AN AMOUNT OF RS. 5,44,725/-.

R1(b) : COPY OF THE METER READING STATEMENT.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 17063 of 2004

Dated, this the 3rd day of August, 2007

J U D G M E N T

Heard learned counsel for the petitioner and learned Standing Counsel for the KSEB. Petitioner is challenging Ext.P6 order in appeal. It is seen that petitioner, who is engaged in defibering of coconut husk, during inspection was found engaged in illegal extraction of power through reversion of CT connection and by interchanging pressure coils of phases. Even though petitioner denies the allegation, learned Standing Counsel for KSEB rightly pointed out that misuse proves beyond doubt that petitioner was engaged in malpractice. Therefore, the finding with regard to illegal extraction of power confirmed in appeal is upheld. The next contention raised is that the estimation of consumption at 8 hours per day for 25 days in a month for six months is not correct because according to the petitioner, the unit was working in an uneven manner on account of fluctuation in the availability of raw-material, namely, coconut husk. The pattern of consumption for the subsequent period after replacement of meter substantiates petitioner's contention, that the production is not in a uniform

pattern. In the circumstances, I direct 4th respondent to reconsider the appeal based on evidence produced by petitioner about the availability of raw material, muster roll for engaging workers, accounted production in the unit, stock register etc. to establish the pattern of working of the unit for re-estimating working hours and number of days worked for the period of six months for which penal bill had been raised. If no reliable material is available, 4th respondent can rely on average actual consumption for the six months, after installation of new meter and after unit commenced regular production, and demand charges for six months. Petitioner is directed to produce copy of the judgment before the 4th respondent for revision of Ext.P6. There will be direction to respondents 2 and 3 not to disconnect supply and not to recover the balance arrears for two months from now. Recovery and disconnection thereafter, for the default if any, will be based on revised orders to be issued by 4th respondent based on the above directions.

(C.N.RAMACHANDRAN NAIR, JUDGE)

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